

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: HEALTH SERVICES

DATE: NOVEMBER 25, 2014

HEALTH SERVICES COMMITTEE

MEMBERS PRESENT:

SUPERVISORS SOKOL
CONOVER
FRASIER
TAYLOR
MCDEVITT

OTHERS PRESENT:

REPRESENTING THE DEPARTMENT OF PUBLIC HEALTH:

PAT AUER, DIRECTOR OF PUBLIC HEALTH/PATIENT SERVICES
SHARON SCHALDONE, ASSISTANT DIRECTOR OF HOME CARE DIVISION
GINELLE JONES, ASSISTANT DIRECTOR OF PUBLIC HEALTH DIVISION
TAMMIE DELORENZO, CLINICAL & FISCAL INFORMATICS COORDINATOR
TAWN DRISCOLL, FISCAL MANAGER

REPRESENTING WESTMOUNT HEALTH FACILITY:

LLOYD COTÉ, ADMINISTRATOR
BETSY HENKEL, COMPTROLLER

LARRY PALTROWITZ, LEGAL COUNSEL FOR WARREN COUNTY

MICHAEL MCCARTHY, MCCARTHY & CONLON, LLP

KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD

PAUL DUSEK, COUNTY ADMINISTRATOR

MARTIN AUFFREDOU, COUNTY ATTORNEY

JOAN SADY, CLERK OF THE BOARD

FRANK E. THOMAS, BUDGET OFFICER

SUPERVISORS BEATY

BROCK

MERLINO

SEEBER

SIMPSON

WESTCOTT

WOOD

MICHAEL SWAN, COUNTY TREASURER

ROBERT LYNCH, DEPUTY COUNTY TREASURER

BUD YORK, SHERIFF

TRAVIS WHITEHEAD, RESIDENT OF THE TOWN OF QUEENSBURY

DON LEHMAN, *THE POST STAR*

SARAH MCLENITHAN, SECRETARY TO THE CLERK OF THE BOARD

Mr. Sokol called the meeting of the Health Services Committee to order at 10:02 a.m.

Motion was made by Mr. Taylor, seconded by Mrs. Frasier and carried unanimously to approve the minutes of the previous Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Pat Auer, Director of Public Health/Patient Services, who distributed copies of the Health Services agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Ms. Auer began by presenting a request to amend the contract with Delta Health Technologies to include the 837 Express Product in order to allow for billing to Medicare as a secondary payer. She noted this request was not included on the agenda, as it was a last minute addition. She explained in the past they had the ability to bill Medicare directly; however, she said, this was no longer the case. She stated the cost included a one-time set up fee of \$950, as well as a monthly fee of \$16. She anticipated more patients would require this type of billing when Managed Medicare was

implemented.

Motion was made by Mrs. Frasier, seconded by Mr. McDevitt and carried unanimously to approve the request as presented and the necessary resolution was authorized for the December 19, 2014 Board meeting. *A copy of the resolution request form is on file with the minutes.*

Commencing the Agenda review, Ms. Auer requested to appoint and reappoint members of the Health Services Department's Professional Advisory Committee for a term commencing January 1, 2015 and terminating December 31, 2015, as outlined on the resolution request form. She noted the Committee was mandated by the NYSDOH (New York State Department of Health) and must be appointed by resolution annually. She explained the Committee met quarterly and minutes of the meetings were reviewed at all State surveys.

Motion was made by Mr. Taylor, seconded by Mrs. Frasier and carried unanimously to appoint and reappoint members of the Professional Advisory Committee as outlined above and the necessary resolution was authorized for the December 19, 2014 Board meeting. *A copy of the resolution request form is on file with the minutes.*

Ms. Auer requested to appoint and reappoint members of the Local Early Intervention Coordinating Council for a term commencing January 1, 2015 and terminating December 31, 2015, as outlined on the resolution request form. She noted this Committee was also a requirement of the NYSDOH.

Motion was made by Mr. Conover, seconded by Mr. Taylor and carried unanimously to appoint and reappoint members to the Local Early Intervention Coordinating Council as outlined above and the necessary resolution was authorized for the December 19, 2014 Board meeting. *A copy of the resolution request form is on file with the minutes.*

Ms. Auer requested authorization for Mary Lamkins, Supervising Nurse, to attend the Home Care Association of New York State's Educational Program, Are You Ready for FIDA (Fully Integrated Dual Advantage) on December 5, 2014 at the Albany Marriott. She explained FIDA was a managed care expansion initiative for dually eligible Medicare and Medicaid patients, which would work and function in the evolving landscape of health care delivery and payment reform. She noted it was important that they had the information and understood the system.

Motion was made by Mr. Conover, seconded by Mrs. Frasier and carried unanimously to approve the request as presented. *A copy of the Authorization to Attend Meeting or Convention is on file with the minutes.*

Ms. Auer requested permission to allow the WIC (Women, Infants, and Children) Program to develop a Facebook page for the 2015 Performance Improvement Project "WIC Helps You Help Your Family". She stated that Michael Colvin, Director of Information Technology, had advised that as per the new Computer Usage Policy that was recently implemented, permission was required from himself, as well as the County Administrator and the Health Services Committee since they were charged with overseeing her Department. She referred to Attachment #7 in the agenda, which included a description of the information that would be posted on the WIC Facebook page. She said social media was a critical part of the Project, which was being implemented to increase the number of participants in the Program.

Mr. Sokol questioned who would be in charge of administering the Facebook page and Ms. Auer replied that Laura Saffer, Nutritionist/Health Educator, and Toni Roth, WIC Coordinator, were

charged with administering and monitoring the data placed on the site. Mr. Sokol asked whether the Facebook page would be deactivated when Cornell Cooperative Extension took over managing the WIC Program in the Fall of 2015 and Ms. Auer replied affirmatively. Mr. Sokol queried whether a resolution was required and Paul Dusek, County Administrator replied in the negative, explaining that only Committee consent was necessary.

Motion was made by Mrs. Frasier, seconded by Mr. Conover and carried unanimously to approve the request as presented.

Tawn Driscoll, Fiscal Manager, requested a transfer of funds between various codes totaling \$38,138 in order to balance the budget. She reviewed each transfer in detail and said she felt they would be sufficient to cover expenses through the end of the year. Tammie DeLorenzo, Clinical & Fiscal Informatics Coordinator, added the first request listed was required to purchase new laptops. She explained last year they had presented a proposal to replace 60 of the 79 laptops utilized by their Department over the course of three years. She stated she felt it was more practical for their Department to use funds available within their current budget to purchase a portion of these new laptops rather than wait until the following year and Mr. Colvin concurred. She added these laptops were originally not part of the Computer Replacement Plan for the County; however, she said, going forward they would be included in the Plan. She advised Mr. Colvin suggested their Department purchase 10 new laptops this year and purchase an additional 10 laptops in 2015. She pointed out they would receive their laptops in a more timely manner if they purchased them now rather than in January when other Departments were also purchasing new equipment.

Motion was made by Mr. Conover, seconded by Mr. McDevitt and carried unanimously to approve the request for a transfer of funds as outlined above and to forward same to the Finance Committee. *A copy of the Request for Transfer of Funds form is on file with the minutes.*

Ms. Driscoll presented a request to amend the 2015 County Budget to increase estimated revenues and appropriations in the amount of \$12,000 to reflect the receipt of funding from the NYSDOH Performance Incentive Initiative Award. Mr. Dusek interjected because the 2015 County Budget could not be amended until January of 2015, if the request was approved by the Committee today it would not be presented to the Board until the January 16, 2015 Board meeting.

Motion was made by Mr. Conover, seconded by Mrs. Frasier and carried unanimously to approve the request as presented and forward same to the Finance Committee. *A copy of the Request to Amend the County Budget is on file with the minutes.*

Ms. Driscoll requested to amend the 2014 County Budget to increase estimated revenues and appropriations in the amount of \$739 to reflect the receipt of COLA (Cost Of Living Adjustment) funding for the Family Health Program CSHCN (Children with Special Health Care Needs) grant.

Motion was made by Mr. Conover, seconded by Mrs. Frasier and carried unanimously to approve the request as presented and forward same to the Finance Committee. *A copy of the Request to Amend the County Budget is on file with the minutes.*

Ms. Auer apprised there were no pending items to discuss this month. Referring to the Warren County Health Services Patient Evaluations Charts, Sharon Schaldone, Assistant Director of Home Care Division, commented the figures reflected a comparison of evaluations performed by the CHHA (Certified Home Health Agency) Division for years 2013 versus 2014. She stated the referrals received from physicians offices remained the same; however, she said, the number of referrals

received from the local hospital were decreasing. She added the number of referrals received for physical therapy had decreased, as well. She estimated the total decrease in referrals to be about 10%, which they had projected due to competition. She advised they were working on a marketing strategy to ensure they remained visible within the region. She continued, to expand upon the number of referrals they received they would be contacting Saratoga Hospital, Albany Medical Center, St. Peters Hospital, etc. to ensure they were aware of the services offered. She noted they were individually tracking the number of referrals received from New York City Hospitals rather than grouping them in a category for out of area.

Ms. Schaldone said she was very active with the Disorate Plan, which dealt with Medicaid Reform and the Medicaid population who used the emergency room as their primary care provider. She pointed out there were different collaboratives they could participate in to assist with disease, chronic pain management and mental health issues. She stated it was a five year plan that projected how many patients they could provide service to. She mentioned if they met the percentage within the area of PPS (Prospective Payment System Organization) they would be reimbursed a certain percentage of the money that was saved by Medicaid. Ms. Auer added there was an article featured in *The Post Star* this past weekend regarding the Adirondack Health Institute and the funding that was being allocated to them. She said the Disorate Plan was one of their organizations collaboratives. She said they wanted to ensure their Department was one of the agencies working together on these collaboratives. She advised although the process would be time consuming, she felt it would be worthwhile due to the training and additional funding that would become available to them.

Ms. Driscoll advised attachment #2 in the agenda packet was a Budget analysis of the Health Services Department as of November 19, 2014. She stated the year-to-date salaries reflected a decrease of \$23,740.22. She noted the increase in part-time salaries was due to them using per diem staff to assist with nursing coverage and the pay out of a per diem employee who retired.

With regards to the Revenue and Expense Comparison Report, Ms. Driscoll advised the report displayed a consistency from this year to last year. She pointed out the year end figures would not be available until February of 2015.

Mr. Conover asked whether their Department tracked where the referrals they received originated from and Ms. DeLorenzo replied affirmatively. Ms. Auer reiterated they were reaching out to other hospitals such as Saratoga and Albany Medical Center in hopes of increasing the number of referrals they received. Ms. Schaldone added they had changed the way they tracked their referrals to assist in identifying the areas that required more marketing.

Mr. McDevitt noted their Department was included on the list provided to him by Albany Medical Center of agencies available to provide in-home care after his hip replacement surgery. Ms. Schaldone advised an issue arose when Washington County closed their Home Care Program. She continued they were impacted by rumors in Albany Medical Center that Warren County had also ceased operating their Home Care Division. She said she responded by contacting Albany Medical Centers Case Management Department, sending them brochures and a letter notifying them Warren County Public Health was still providing Home Care Services. She added the additional marketing plan they were working on was necessary in order to increase the number of referrals they received. She commented the relationships they had with their competitors were essential so they could receive/make referrals for services not provided. She advised she had met with the Directors of HCR Home Care and Fort Hudson Home Care, Inc. a few weeks ago to discuss the Hospital to Home Collaboration Plan.

Mr. Beaty commended Ms. Auer and her staff for providing actual figures comparing the 2013 and 2014 Department Budgets and he commented that he was pleased with the decrease in Personnel Costs.

This concluded the Health Services portion of the Committee meeting and the Westmount Health Facility portion of the meeting commenced at 10:24 a.m.

Mr. Sokol advised a conceptual draft agreement for sale of the Westmount Health Facility was discussed at the November 19, 2014 meeting of the Health Services Committee and was released to the public on Friday, November 21, 2014. He asked that all questions and/or comments from the Committee members and Supervisors be addressed prior to the public commentary portion of the meeting.

Mr. Westcott advised he presented his comments in writing this morning regarding the proposed draft agreement of sale and draft asset purchase agreement; a copy of which is on file with the minutes. Mr. Sokol suggested possibly responding to Mr. Westcott's comments and/or questions at another meeting or replying via email within a timely manner. Mr. Westcott asked the Committee to address the matter as they saw fit.

Travis Whitehead, resident of the Town of Queensbury, apprised he was provided a copy of the contract on Friday afternoon and reviewed it over the weekend. He said he would like to continue to review the contract, as he had many questions regarding it. He noted he could find no guarantee of Medicaid payments in the contract; however, he said, it was still clearly stated in Section 3.8 of the Asset Purchase Agreement. He read the following from this section of the contract: "The Seller is and continues to remain contractually obligated for the payment to Buyer of the amount of the Lease payments less the Medicaid reimbursement therefore received by the Buyer through December 31, 2021". He commented he felt this was the same as guaranteeing the Medicaid payments because if there were no reimbursements for Medicaid to the "Buyer" then the County would be required to pay the entire lease payment. He questioned whether his understanding was correct and Larry Paltrowitz, Legal Counsel for Warren County, replied in the negative. He explained the basic concept was that the County had a lease with Siemens Industry, Inc. for the co-gen. He mentioned the transaction would be if Siemens Industry, Inc. consented to the assignment of the lease then the transactions shifted to the operator of the nursing home and Siemens Industry, Inc. He said the lease payments would be made directly by the operator of the nursing home (Centers for Specialty Care) to Siemens Industry, Inc. He stated a portion of this transaction was an analysis of what the lease payments were continuing through July of 2017. He continued, unrelated to the lease payments, funding received through Medicaid reimbursement would continue from the date of closing through December of 2021; therefore, he stated, it was necessary to consider the big picture of what the transaction would be from the date of closing through December of 2021. He added there were alternative provisions included in the contract if Siemens Industry, Inc. would not consent to the assignment of the lease. He concluded the burden of making the payments on the co-gen lease with Siemens Industry, Inc. shifted to Centers for Specialty Care. He noted from the date of closing through July of 2017 there would be no funding required from the County for the lease payments, as payments would be received directly from Centers for Specialty Care to Siemens Industry, Inc. or passed through the County; however, he said, all the funds were generated from Centers for Specialty Care.

Mr. Paltrowitz advised that Mr. Whitehead was referring to the section of the contract that dealt with what would occur if in fact there was insufficient Medicaid reimbursement to cover the lease payments. He stated they had calculated based upon an 80% Medicaid occupancy even though the

requirement was only 73% to assure there would be a sufficient amount of funding received for Medicaid reimbursement to offset the amount of the lease payments. He said when calculating the lease payments from closing through July of 2017 with a Medicaid reimbursement rate of 73 or 80%, it would be understood that the reimbursements covered these payments. He pointed out the only burden the County retained was if the County acted or failed to act in any way that would impact the Medicaid reimbursement related to the co-gen. He said if the County failed to act prior to closing with regard to something the County was supposed to do with regard to Medicaid then the liability remained on the County. He added the sole exception was if Medicaid determined there was something unique to the co-gen at Westmount Health Facility that would preclude a Medicaid payment; however, he stated, they had been unable to conclude there was any such item like this associated with the co-gen. He reiterated these were the only two circumstances that would shift the responsibility of the lease payments back to the County. He mentioned Centers for Specialty Care was required to exhaust all administrative efforts in an attempt to remedy any Medicaid issue including commencing legal action if deemed necessary in order to obtain the Medicaid payments. He advised the contract had taken the current full liability for the operation of the co-gen at Westmount Health Facility and shifted the bulk of the responsibility to Centers for Specialty Care, which left Warren County with limited responsibility.

Michael McCarthy, McCarthy & Conlon, LLP, apprised he would like to elaborate on Mr. Paltrowitz's statement regarding if Medicaid determined there was something unique to the co-gen at Westmount Health Facility that would preclude a Medicaid payment. He stated initially the NYSDOH had agreed to the costs; however, he said, the NYSOMIG (New York State Office of the Medicaid Inspector General) determined these payments should not be made, as all of the facilities already had utility costs built into their base period because they were purchasing electricity from the grid; therefore, he said, they felt it was a duplicate payment. He stated the issue was brought before the court and a judgement was issued in favor of Saratoga County. He apprised since the court determination NYSOMIG has allowed these costs in all of the Medicaid rates; therefore, he said, going forward the Medicaid rates would include the capital component for the co-gen including depreciation and interest. He added last week he had spoken with Cindy Trice of the NYSDOH, who was responsible for setting the Medicaid rates and she assured him the 2015 Medicaid rate for the Westmount Health Facility that would be published in January of 2015 included 100% reimbursement for the interest expense on the co-gen lease, as well as the depreciation. He commented they had taken the required action to ensure that these costs were reimbursable by Medicaid going forward before Centers for Specialty Care assumed ownership of the facility.

Mr. Whitehead advised he had also read the judgement that was issued in favor of Saratoga County and he felt it relied heavily on the fact that the judge concluded the certificate of need was essentially a contract between Saratoga County and the NYSDOH that was in effect and therefore should be followed and Mr. McCarthy concurred. He said the NYSDOH regulations clearly stated that if you have an approved certificate of need then depreciation and interest costs were reimbursable, which was why a judgement was issued in favor of Saratoga County. Mr. Whitehead questioned whether Saratoga County had received the Medicaid reimbursement and Mr. McCarthy replied affirmatively. He added Westmount Health Facility had received the Medicaid reimbursements through 2008, as well. Mr. Whitehead inquired whether any Medicaid reimbursements had been received subsequent to 2008 and Mr. McCarthy replied in the negative. He explained Westmount Health Facility's Medicaid rates were whole through 2008. He noted they had rate appeals outstanding for the costs from 2009 going forward. He said the rate appeals were capital related and the NYSDOH owed the County this money because NYSOMIG had approved these costs; however, he stated, a question remained as to when these claims would be paid. He continued, there was a related issue called the Universal Settlement wherein the NYSDOH was attempting to negotiate with

the Nursing Home Industry for claims dating back to the 1990's. He advised this was a substantial amount of money the NYSDOH was obligated to pay even though they did not have sufficient funding available to pay it; therefore, the NYSDOH was attempting to negotiate with the Nursing Home Industry to accept a lump sum settlement on the rate appeals. He commented the negotiation process was still well underway and the outcome of which remained uncertain. He apprised there was a strong feeling amongst the Nursing Home Industry the Capital Appeal should be excluded from this settlement because it was covered under the NYSDOH regulations regarding certificates of need. He pointed out this was the only matter with the potential to jeopardize part of the Medicaid reimbursement due to Westmount Health Facility for 2009 through 2014. He reminded the Committee from 2015 going forward the Medicaid Reimbursement was included in the rates.

Mr. Whitehead stated subsequent to the 2013 judgement obtained by Saratoga County they did receive the Medicaid reimbursements. He pointed out Westmount Health Facility received assurances from the NYSDOH that there would be such payments made to them; however, he noted, as of yet they have not been received. He said the NYSDOH had indicated that they were unaware of NYSOMIG's motive for continuing to withhold these payments. He pointed out the RFP (Request for Proposal) for the sale of Westmount was released around the same time the judgement in favor of Saratoga County was released. He surmised NYSOMIG considered the certificate of need to be compromised if the sale of the facility went through. He added he was unsure if this was the rationale for NYSOMIG withholding the payments; however, he said, no payments had been made as of yet. Mr. McCarthy interjected that this was incorrect, as NYSOMIG had audited the rates through 2008 and accepted the co-gen costs as reimbursable. He advised NYSOMIG was not responsible for the rates after 2008 unless they audited those subsequent periods, which he felt they would be doing at some point. He stated NYSOMIG normally performed a 4-5 year block audit at one time because the statute of limitations for them to audit was a six year window. He apprised since NYSOMIG had already determined the co-gen costs were reimbursable they could not modify their determination. He mentioned the only thing that had not occurred as of yet was that the NYSDOH had not rolled the adjustments into the rates because of the Universal Settlement they were negotiating with the Nursing Home Industry. Mr. Whitehead interjected in his experience there was no such thing as a definite deal and these things could come undone.

Mr. Whitehead asked Mr. Paltrowitz to address why Centers for Specialty Care was not listed in the Asset Purchase Agreement or the Agreement of Sale; however, he stated, Warren Operations Associates, LLC and Warren Land Associates, LLC were, neither of which existed as a legal entity. Mr. Paltrowitz advised it was always understood that there would be separate LLC's that would operate Westmount Health Facility and own the real estate, which was consistent with the way other nursing homes that were sold and operated by Centers for Specialty Care were established. He continued, there was nothing unusual about this transaction with regards to the fact there was a separate LLC to operate Westmount Health Facility for Centers for Specialty Care and a separate LLC to own the real estate for Centers for Specialty Care, as well. Mr. Whitehead interjected that the application to create these LLC's was not filed until last week; therefore, he said, the LLC would not be fully formed until publication occurred for a period of six weeks in the local paper. He questioned how the County could enter into a contract with an LLC that did not exist, as he felt the LLC's would not be fully formed unless they continued with the ad in the local paper until the six week time frame required had been met. Mr. Paltrowitz advised the LLC was created once the application was filed with the Department of State. He pointed out there were requirements for publication as well as requirements for future filings, none of which would effect the authenticity of the LLC. He noted once the filing occurred with the Department of State there was no requirement to wait until the publication was completed or the filings with the Department of State following the publications in order for the LLC to be operable to function. He commented the process of meeting

these requirements to make the entity effective did not mean the LLC did not have legal status on the date the application was filed with the Department of State. Mr. Whitehead pointed out if for some reason the LLC did not fulfill the six week publication requirement they would not be considered a legitimate LLC. He suggested the contract would be in jeopardy if the LLC did not meet all of the requirements set forth to be recognized as legitimate.

Mr. Whitehead advised his biggest concern with the contract related to a clause that was inserted in Section 1.9 titled "Optimization Operation of the Cogeneration Facility". He said he was concerned with the statement that "the seller shall terminate the Performance Assurance Technical Support Agreement for the Cogeneration Facility to effectuate the termination of the Performance Assurance Technical Support Fee". He advised this would be the third time he voiced his concern on the record regarding the Article 4.8 from the Siemens Performance Assurance Contract, which the County entered into in 2004. He expressed his aversion to the contract, as he felt it had caused a number of issues for the County over the years. He pointed out there was a "self destruct" clause in the contract as far as Siemens Industry, Inc. was concerned to get them out of an abundant amount of issues. He stated the contract gave the County little momentum with regards to trying to effectuate claims. He read the following from the contract: "The Performance Guarantee is dependent upon and is subject to the express condition that the client enter into and maintain during the entire term of the Performance Guarantee Period the Performance Assurance TSP. If the client fails to enter into, breaches, cancels or otherwise causes the termination of the Performance Assurance TSP this Performance Guarantee shall terminate immediately and be void of in no effect and no force for effect". He explained his interpretation of this was that if the County did not continue with the Report which cost the County about \$8,000 a year, the County was forfeiting their guarantee.

In response to Mr. Whitehead's concerns, Mr. Paltrowitz apprised he wanted to assure everyone that Counsel for Centers for Specialty Care and Counsel for the County were on the same page with regards to the issue with Siemens Industry Inc., as neither wanted to take any action that could jeopardize the claims that the County had against Siemens Industry Inc. up to the date of closing. He stated both representatives for Centers for Specialty Care and representatives of the County concurred that the paragraph Mr. Whitehead referenced would only impact a prospective application and not a retroactive application; however, he said, he could assure everyone that neither the County nor Centers for Specialty Care planned on taking action that would jeopardize any existing claims that the County had against Siemens Industry Inc. He clarified the fee referenced was paid to Siemens Industry Inc. for a report generated by them, which was separate and distinct from the Service Agreement with Siemens Industry Inc. to perform repairs on the co-gen. He reiterated this would be on a prospective basis and not a retroactive basis; therefore, it would not jeopardize any claims the County had against Siemens Industry Inc. up to the date of closing.

Mr. Whitehead countered that Siemens continued to disagree with the County, as they believed contractually they had done everything correctly. He pointed out Siemens responded to the EnerNoc Inc. Report and reacted to other allegations by advising that they were following the contract. He stated he thought the sizable claims the County could pursue against Siemens outweighed the \$8,000 a year they would save if they no longer paid for the Performance Assurance TSP. He added he disagreed with Mr. Paltrowitz's statement that an LLC existed from the date an application was filed with the Department of State, as he believed it was not recognized as a legitimate business until after the requirement of a legal ad in a local paper six weeks prior had been met.

With regards to the Year 9 Report from Siemens Industry Inc., Mr. Whitehead apprised there was a clause in the Report where Siemens Industry Inc. was arguing against the findings of EnerNoc Inc.

that in the contract it stated that neither client nor Siemens Industry Inc. could change the parameters of certain parts of the stipulated guarantees yet Siemens Industry Inc. did. He said in the Year 9 Report he obtained a copy of about a month ago it stated the following response to EnerNoc Inc. findings: "Although EnerNoc Inc. disclaimed any intent to interpret the contract or opine on legal matters they asserted that as per contract the voided laundry costs should not be measured and adjusted by Siemens Industry Inc. Based on this assertion EnerNoc Inc. removed over \$200,000 in additional laundry savings from its overall calculations. Enernoc Inc. deducted these savings even though in other areas EnerNoc Inc. attempted to calculate actual savings without regard to provisions in the contract. The inclusion of the actual laundry savings is proper under the Performance Contracting Agreement. Articles 4.4 and 4.5 provide Siemens to adjust the savings guarantee if the County changes its operations or business in such a way as to effect energy consumption measured by the project baselines." He pointed out this was not in the stipulated portion of the contract. He continued, "Siemens detailed the additional laundry savings in each Performance Assurance Report going back to Year 1." He drew attention to the following statement by Siemens Industry Inc. included in the Year 9 Report: "The County Board of Supervisors ratified this addition in its review of the Year 1 Performance Assurance Report and each of the reports that have followed". He commented this meant whether they were aware or not the Board of Supervisors according to Siemens Industry Inc. changed the agreement when the contract clearly stated neither the client nor Siemens Industry Inc. could change it when they accepted the Performance Report every year.

Mr. Whitehead advised accompanying the Year 9 Report that he received a copy of last month was a letter addressed to Paul Dusek, County Administrator, that included a form to be notarized indicating the Board of Supervisors was accepting the report. He pointed out the letter which was dated July 31, 2014 also stated the following: "If Siemens does not receive your response by September 15, 2014 the reported energy savings will be deemed acceptable as presented". He advised this meant although the Board was unaware of the Report they had already approved it since the date of September 15, 2014 had long since passed before it was even disclosed that a Year 9 Report existed. He commented these were the type of actions he had viewed and complained about for the past year and they were continuing to occur.

With regards to Section 2.3 in the Asset Purchase Agreement, Mr. Whitehead apprised this section included the following statement: "The Facility and the Premises are not in violation of, and have not been given notice or charged with any violation of, any law, statute, order, rule, regulation, ordinance, or judgement (including without limitation, any applicable environmental law, ordinance, or regulation) of any Governmental Authority. Except as disclosed on Schedule 2.3, no investigation, audit or review by any Governmental Authority (including Medicare and Medicaid) is pending involving the Facility not, to the Sellers Knowledge, has any Governmental Authority indicated an intention to conduct any such investigation, audit or review. Except as disclosed on Schedule 2.3", which he advised had a single word of none in there. He said what he contended with was the fact that the County had hired as a second effort Mr. Paltrowitz to investigate the possible failings of Siemens and being able to pursue possible claims against them for the co-gen. He commented he felt this indicated that there was an issue and to state otherwise would seem to be a problem. He reminded the Committee there was an investigation underway at the County level that involved the District Attorney's Office, as well as the State. He pointed out none of this was disclosed in Section 2.3, as it simply stated None. He continued, there were a number of issues with the contract that he questioned and felt that if he had been given ample time to review it he would have been able to identify many more problematic areas within it.

Mr. Whitehead requested that Mr. Paltrowitz address the fact that the contract stated the County

was unaware of any investigations. Mr. Paltrowitz explained Section 2.3 referred to investigations being conducted by Governmental Authorities and not internal investigations directed by Warren County in terms of claims against Siemens Industry Inc. He stated this section represented operation of the Westmount Health Facility itself and had no bearing on Siemens Industry Inc. or the co-gen. He continued, this section was referring to NYSOMIG audits, Medicare audits, NYSDOH audits and other similar occurrences. He noted this was critical to the entity purchasing the facility. He said there was no question that Centers for Specialty Care was aware of potential claims because the contract did discuss potential claims that the County had. He commented the contract reserved the County's right to any potential claims including claims against Siemens Industry Inc.; therefore, he said, there was no question that Centers for Specialty Care was aware that the County had such claims. He advised Section 2.3 was representative of, if in fact, there was a NYSOMIG audit that was pending or if there was a NYSDOH audit that was pending, as this is the type of information that would be reported in this section.

Mr. Whitehead interjected his understanding was there were NYSOMIG audits pending. He stated he was aware that the Warren County Sheriff had notified the County and Mr. Paltrowitz that there was an open investigation going on but he did not feel the sale in itself would have an impact on these investigations. He advised since Centers for Specialty Care was aware of and understood these circumstances he felt it was reasonable to reference them in the contract so it could not be argued in the future that they were unaware of them.

Mr. McDevitt queried whether the contract reserved the County's right to actively pursue claims against Siemens Industry Inc. after the sale closed and Mr. Paltrowitz replied affirmatively. He explained that the County would be able to pursue claims for any actions that occurred prior to the date of closing. Mr. McDevitt asked Mr. McCarthy whether Cindy Trice of the NYSDOH would be willing to put in writing that the 2015 Medicaid rate for the Westmount Health Facility included 100% reimbursement for the interest expense on the co-gen lease, as well as the depreciation. Mr. McCarthy advised he would reach out to Ms. Trice to make that request. He reminded the Committee the Medicaid costs would be released in early January.

Mr. Conover questioned whether Mr. Paltrowitz could provide an estimated time frame from now until closing. Mr. Paltrowitz explained assuming the Committee authorized the draft agreement of purchase today it would be presented for consideration at the December 19, 2014 Board meeting. He continued if the agreement was approved by the Board, the County would be required to enact a Local Law with regards to the transaction. He said during this process Centers for Specialty Care would submit the Certificate of Need and required documentation to the NYSDOH for review. He stated there was an uncertainty with the time frame for the NYSDOH to complete their review; however, he advised, the earliest estimate he could provide for the closing would be about six months from the December 19, 2014 Board meeting. Mr. Conover asked Mr. Paltrowitz what the NYSDOH would be reviewing. Mr. Paltrowitz explained the NYSDOH would be reviewing the functionality of the entity and whether or not there was any reason that entity would not be able to operate the facility in the appropriate manner. He said he was unsure of all the criteria the NYSDOH utilized to evaluate the entity; however, he stated, the entire purpose was to evaluate whether there was a need to have that facility operate and whether the entity would comply with the requirements set forth by State law and regulations.

Mr. Dusek advised there was a question raised at the prior Committee meeting about how the County could find out more about Centers for Specialty Care and whether or not there were any substantial issues existed regarding them. He asked Lloyd Cote, Administrator for Westmount Health Facility, to respond to the question since he was familiar with the subject matter. Mr. Cote apprised

Centers for Specialty Care would have to go before the State Hospital Review and Planning Council which met on a quarterly basis. He said they would go through a character and competency evaluation. He stated he felt if there were any issues with Centers for Specialty Care it would be brought forward here with the scrutiny of the NYSDOH. He noted they would be reviewing not only how Centers for Specialty Care was proposing to manage the Westmount Health Facility, but also how they managed other facilities they owned, as well and if there were any issues with any of them. Mr. McCarthy added the NYSDOH also performed a financial feasibility review to ensure the figures Centers for Specialty Care presented in their Certificate of Need were accurate and they would be able to operate the facility in a financially viable manner. Mr. Conover commented he believed the State would do their due diligence in their review of the sale, as they did with any other facilities that were sold in the State.

Martin Auffredou, County Attorney, stated once the Asset Purchase Agreement and the Agreement of Sale were approved by the Board his Office would immediately commence work on the Local Law. He explained there was a County Law 215 process they were required to go through. He said since this was not a "heavy lift" for his Office, he felt they could accomplish this within a sensible time frame. He apprised another aspect required was the subdivision contingency. He mentioned the County was working with a surveyor to complete this task. In summary, he commented both of these tasks would be worked on during the period of time Centers for Specialty Care was pursuing a Certificate of Need from the NYSDOH.

Ms. Seeber questioned what the definition of governmental authority was, as she did not see any reference that excluded law enforcement or the State. She said she was concerned the County would be liable if they did not include their active investigation of Siemens Industry Inc. in the contract. Mr. Paltrowitz advised the definition of governmental authority was listed on page 3 of the Asset Purchase Agreement and stated "Governmental Authority means court, tribunal, arbitrator or any government or political subdivision thereof, whether federal, state, county, local or foreign, or any agency, authority, official or instrumentality of any such government or political subdivision". In response to Ms. Seeber's concerns regarding liability, he commented he did not believe there was any exposure to Warren County in reference to any type of internal investigation that may exist with regard to Siemens Industry Inc. and not in regards to the operation of Westmount Health Facility.

In reference to Ms. Seeber's question regarding Section 3.8 titled Operation of Cogeneration Facility and whether the County was liable for the full amount if the Medicaid Reimbursement was not received, Mr. Paltrowitz stated the process was effective through 2021. He continued, ultimately the transaction continued and if it headed in the direction they assumed there was no obligation on Warren County as the transaction continued because the buyer would make the payments on the lease assuming that the lease payments continued. He stated the County would only be liable if in fact the Medicaid payments were not received because of an act or failure to act on behalf of the County for something unique to the co-gen facility at Westmount. If, for example, he apprised the Medicaid Reimbursement was not received due to a delay with regard to the NYSDOH operations, there was no exposure to liability on the County. He pointed out the entire Medicaid rate system was changing; however, he said, there was uncertainty of when these changes would be implemented. He commented Section 3.8 of the Asset Purchase Agreement confirmed whatever new Medicaid Reimbursement rates were established for the operation of Westmount Health Facility it was presumed there were sufficient capital costs in the new rates to cover what the County was accomplishing by having the Medicaid Reimbursement rates come back to the buyer to cover the lease payments. He continued, as the Medicaid Reimbursement rate formula changed and negotiations occurred there was no exposure on the County's part that would cause the buyer to hold the County liable if the new rates did not include costs associated with the co-gen. He stated

although he believed these two circumstances were improbable, they were possible and the contract limited the Counties exposure as much as possible. Ms. Seeber thanked Mr. Paltrowitz for his explanation and advised she would email him with some additional questions she had.

Mr. Whitehead reread the definition of governmental authority that was listed in the Asset Purchase Agreement and stated he felt strongly the Attorney General fell under this definition. He questioned why the investigation by the Attorney General was not included in the contract since the buyer was aware of the investigation. He requested the investigation be included in the contract since the buyer understood it.

Mr. Whitehead advised he would like to respond to how the County Attorney characterized County Law 215 as "not a heavy lift". He pointed out County Law 215 required the County to certify that the facility was unnecessary for public use and would require a 2/3 majority vote of the Board of Supervisors. He noted this was a much "heavier lift" than what typically applied at the Board meeting, as it was rare for a resolution to require a 2/3 majority vote. He stated his concern was if this was treated as just another task that needed to be completed rather quickly there may be the temptation to speed through it; however, he said, there did not appear to be any reason why the County could not have already done this and involved the public. He apprised he assumed the Board had determined a need for the facility when it was built in the 1980's and the public had been involved in the process. He asked what had changed since this time to determine that the facility was no longer needed for public use. He added the public should be allowed to voice whether the facility was no longer necessary for public use. He commented to him it was not just a technicality or a "heavy lift", as he felt it was something that needed to be addressed and should be, as there was substantial time available to do so. He stated the longer this was postponed the more excuses the County would have to shut the public out, which was upsetting to him.

Mr. Conover queried when the RFP for the sale of the facility was sent out and Mr. Dusek replied it was about 2 years ago. Mr. Whitehead interjected that the RFP was sent out in October of 2012. Mr. Westcott thanked Mr. Paltrowitz for his work on the contracts. He added he appreciated that the contracts were made available to review last Friday, as this allowed the Supervisors to review them over the weekend. He apologized that his comments were not available until this morning and may contain many typos, as he spent several hours this morning preparing them. He stated his lack of understanding had to do with the Medicaid payments, as he was not a lawyer and there was an abundant amount of legal language included in the contract. He requested the opportunity to meet with Mr. Auffredou and Mr. Paltrowitz so he could get a better understanding of the contract. He pointed out he sent an email to Mr. Paltrowitz and Mr. Auffredou on Thursday, November 20, 2014 requesting a meeting with them. Mr. Paltrowitz replied he had sent Mr. Westcott a response stating he was available all day on November 21, 2014 to meet with him to which he received no response. Mr. Auffredou noted he left 2 voicemails for Mr. Westcott to which, he as well, received no response. Mr. Westcott advised it must have been a miscommunication on his part and he asked whether they would be available to get together early next week. He stated he would like to meet with them so he could get a better understanding of the Medicaid payments. He apprised his questions were contained in his response and included how much Medicaid was part of the original deal, how much has been paid year-to-date, etc. He commented he found Section 3.8 of the Asset Purchase Agreement to be very confusing and he wanted to ensure all the Supervisors clearly understood what the liability was. He said he had heard the explanation a number of times and he still could not get the figures to calculate correctly.

Mr. Westcott stated he would like to address a few items Mr. Whitehead had brought forward. He said he appreciated Mr. McCarthy's comments; however, the County was just paid IGT

(Intergovernmental Transfers) funds this year and did not anticipate receiving these funds in the future. Mr. McCarthy advised this was not necessarily true. Mr. Westcott apprised while this was not necessarily true this was what was projected in the Multi Year Plan for the County. Mr. Dusek interjected this was incorrect. Mr. Westcott questioned what the deficits were a result of in the Multi Year Plan. Mr. Dusek explained the deficits were a result of operating the facility even assuming the IGT funds. Mr. Westcott asked whether the Multi Year Plan assumed the County would receive IGT funds in the future and Mr. Dusek replied affirmatively. Mr. Westcott apprised he was unsettled with the fact that the Medicaid Reimbursements had not been received for 7 years and his understanding of the contract was that the County was still guaranteeing those payments going forward. He stated his desire was to better understand the liability to the County.

With regards to the buyer establishing the 2 separate LLC's, Mr. Westcott advised the County had been aware for some time of the buyers intent to establish these LLC's to manage the facility and the real estate. He reminded the Committee the high bidder for the RFP had been an LLC, as well. He continued, due to concerns expressed with this particular proposal the Board determined not to move forward with it. He said he wanted to ensure the Board was comfortable with the 2 separate LLC's being established because he did not see the direct link between them and Centers for Specialty Care. He commented he wanted to ensure Centers for Specialty Care would be actively involved.

Mr. Westcott questioned what the time frame was for presenting County Law 215 and approving a resolution deeming the facility unnecessary for public use. Mr. Auffredou advised he felt Mr. Whitehead had mischaracterized or misunderstood his comments, as the "heavy lift" referred to the work he was required to do preparing the draft local law to comply with County Law 215. He explained it would not be a "heavy lift" for him to put these documents together for the local law. He said it seemed to him the annunciation of the no longer needed for public use could occur when the Board voted on the contract, which could be as early as December 19, 2014 or at the time the Board acted upon the Local Law. He added he thought Washington County deemed they no longer needed their facility for public use when they acted upon County Law 215 but he was unsure. With regards to a time frame, he surmised the Local Law could be acted upon as early as January or February of 2015.

In reference to the termination of the Performance Assurance TSP that Mr. Whitehead had brought forward, Mr. Westcott advised he had his personal attorney review this because he desired a second opinion. He said his attorney informed him there was some validity to the opinion that if the Performance Assurance TSP was terminated the savings guarantee would be null and void. He asked Mr. Paltrowitz to clarify his remarks regarding the fee paid to Siemens Industry Inc. for a report generated by them, which was separate and distinct from the Service Agreement with Siemens Industry Inc. to perform repairs on the co-gen, and confirm that it was established on a prospective basis and not a retroactive basis; therefore, it would not jeopardize any claims the County had against Siemens up to the date of closing. Mr. Paltrowitz explained they could be assured that whatever actions the County took with Centers for Specialty Care with regard to this transaction, any claims the County had up to the date of closing would be preserved. He continued, once the closing occurred, assuming that there was an assignment of the lease for the co-gen, any issues that arose with the co-gen after the closing would be considered a matter between Centers for Specialty Care and Siemens Industry Inc. He pointed out any claims that occurred prior to the date of closing by the County could be asserted and have provisions to reserve these rights. Mr. Westcott queried whether the County could preserve the rights to take action even if it took place after the closing and Mr. Paltrowitz replied affirmatively. He explained the County could commence a lawsuit after the date of closing but it would have to be related to transactions that occurred prior to the

closing.

Mr. Westcott stated his final comment related to the Section 1.9 of the Asset Purchase Agreement entitled "Optimizing Operation of the Cogeneration Facility". He commented there were two provisions in the contract that stated the buyer would take the co-gen as is and yet this section of the agreement required the County to put forward \$10,000 to optimize the operation of the facility. Mr. Paltrowitz interjected he felt these were expenses the County incurred presently and the County would have to spend upwards of \$20,000 to complete the necessary repairs in order to operate until the closing. He stated this had been negotiated prior to his involvement but the buyer indicated they were willing to put forward \$10,000 of the \$20,000 the County would have spent to make the repairs. He said from the County's perspective it was a way to share the costs that would assist the County on a short-term basis but would obviously have a long-term impact on the facility, as well. Mr. Westcott asked Mr. Dusek if this was an accurate explanation and Mr. Dusek replied affirmatively. Mr. Dusek asked the Committee to keep in mind this was negotiated quite some time ago and they thought those enhancements would have been done already. He continued, during this whole process both the seller and buyer would enjoy the benefits of these improvements. He commented the County would still enjoy some benefits from the improvements; however, he said, it would have less of an impact on the County since they were hoping to move the process along as quickly as possible to avoid the deficits they would incur managing the facility. He added the County may not revel in as much of a benefit as they would have at one point.

Mr. Brock questioned whether the County would be liable if Centers for Specialty Care ceased operating the co-gen. Mr. Paltrowitz explained the County would have a claim against them if they did not fulfill the obligation that they indicated they were going to fulfill. As an example he stated, they were obligated to operate the co-gen through December of 2021 and if they failed to do so the County could make a claim against them. Mr. Brock asked whether the County could be notified if Centers for Specialty Care did not perform the required maintenance on the co-gen facility, as he felt it may be cheaper for the County to do the maintenance rather than take action. Mr. Paltrowitz advised there were notice provisions in the contract as far as operations of the facility that required Centers for Specialty Care to notify the County, if there were components that would have an impact on the County such as audits.

Mr. Whitehead requested that Mr. Dusek produce a purchase order for the \$20,000 in improvements to the co-gen, as he was unaware of this. Mr. Dusek responded that he did not say they had asked Siemens Industry Inc. to perform these improvements, but rather it was an enhancement that both parties agreed would be beneficial to the facility. He noted there was no agreement with Siemens Industry Inc. to provide that service at this time. Mr. Whitehead questioned why it was included in the contract since the County would receive no benefit from it. He added he felt it should be investigated further, as he had a hard time believing any improvements made by Siemens Industry Inc. would improve the facility considering their history. He said what little he did see in the proposed improvements was that it enhanced the summer operating capabilities by going to a single generator on a timer or something similar to this. He commented he felt it would be unwise for the County to put forth \$10,000 for improvements that would impact the summer operation of the co-gen when they were anticipating a closing within the next 6 months. Mr. Dusek pointed out that was why he mentioned when it was developed and negotiated it was a benefit to the County; however, the circumstances had changed now because it had been such a long process. He stated this was part of the transaction that was negotiated at that time so it appeared to him it would still be a benefit to the County, if the contract was approved.

There being no further discussion on the draft purchase agreement, a motion was made by Mr.

Taylor, seconded by Mr. Conover and carried unanimously to approve the draft of purchase agreement for the sale of the Westmount Health Facility and the necessary resolution was authorized for the December 19, 2014 Board meeting.

Privilege of the floor was extended to Mr. Cote, who distributed copies of the Westmount agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing the agenda review, Mr. Coté requested Betsy Henkel, Comptroller for Westmount Health Facility, to present the first item. Ms. Henkel requested authorization for the adoption and electronic certification of the Corporate Compliance Policy for Westmount Health Facility. She reviewed the three-page Corporate Compliance In-Service Outline with the Committee members; *a copy of which was included in the agenda.* Ms. Henkel noted that the Westmount Health Facility Corporate Compliance Manual was available on the Warren County website.

Motion was made by Mr. McDevitt, seconded by Mrs. Frasier and carried unanimously to authorize the adoption and electronic certification of the Corporate Compliance Policy for Westmount Health Facility as outlined above. *A copy of the resolution request form is on file with the minutes and the necessary resolution was authorized for the December 19, 2014 Board Meeting.*

Ms. Henkel requested a new contract with Mahoney Notify-Plus Inc. to provide semi-annual test and inspections of fire alarm, sprinkler alarm and security alarm for Westmount Health Facility in an amount not to exceed \$1,500, as well as to include emergency repair coverage in an amount not to exceed \$1,000. She stated Mahoney Notify-Plus Inc. had not increased their rates in about 3 years. She said they performed testing twice a year and billed for half the cost each time. Mr. Conover asked what the emergency repairs included and Ms. Henkel replied on occasion they required repairs to smoke detectors or additional repairs to an alarm.

Motion was made by Mr. Taylor, seconded by Mr. McDevitt and carried unanimously to approve the request as presented and the necessary resolution was authorized for the December 19, 2014 Board meeting. *A copy of the resolution request form is on file with the minutes.*

Ms. Henkel requested to amend the 2014 County Budget increasing estimated revenues and appropriations in the amount of \$1,200 to reflect the receipt of insurance recovery funds for the replacement of a resident's dentures.

Motion was made by Mr. Conover, seconded by Mrs. Frasier and carried unanimously to amend the 2014 County Budget as outlined above and to forward same to the Finance Committee. *A copy of the Request to Amend the County Budget form is on file with the minutes.*

Ms. Henkel requested authorization for payment to McCarthy & Conlon, LLP for time incurred through November 8, 2014 relative to the proposed sale of Westmount in the amount of \$765. She stated this was for 4.5 hours of accounting work Mr. McCarthy completed at a rate of \$170 an hour. Mr. Auffredou advised he felt Mr. McCarthy's services would be required to some extent throughout the process for the sale of the facility. He said he wanted to ensure there was a mechanism in place wherein the County could call upon Mr. McCarthy for his accounting services. He added he felt Mr. McCarthy's services had been valuable throughout the process, as he made himself available to answer any questions and provided good suggestions. He commented he felt they would be well advised to do this so that Mr. McCarthy could be on board.

Motion was made by Mr. McDevitt, seconded by Mr. Conover and carried unanimously to approve

the request as presented and the necessary resolution was authorized for the December 19, 2014 Board meeting. *A copy of the resolution request form is on file with the minutes.*

Ms. Henkel requested a new contract with McCarthy & Conlon, LLP to provide assistance with accounting and financial matters related to the transaction to convey the sale of Westmount Health Facility for a term not to exceed 20 hours at a rate of \$170 per hour. Mr. Sokol questioned whether the funds were available within the budget and Ms. Henkel replied affirmatively.

Motion was made by Mrs. Frasier, seconded by Mr. Taylor and carried unanimously to approve the request as presented and the necessary resolution was authorized for the December 19, 2014 Board meeting. *A copy of the resolution request form is on file with the minutes.*

Ms. Henkel requested a transfer of funds between various codes totaling \$98,699 in order to balance the salaries budget until the end of the year. She explained the first request listed in the amount of \$2,917 pertained to the interest due to the County for the loan they provided to Westmount Health Facility.

Motion was made by Mr. Conover, seconded by Mr. McDevitt and carried unanimously to approve the request as presented and to forward same to the Finance Committee. *A copy of the Request for Transfer of Funds is on file with the minutes.*

Continuing, Mr. Coté requested to increase the daily room rate at Westmount Health Facility from \$294.94 + 6.8% New York State Assessment Tax (\$315 per day) to \$304.30 + 6.8% New York State Assessment Tax (\$325 per day) effective February 1, 2015. He stated they charged the lowest rate in the area. He pointed out most nursing homes increased their rates on an annual basis. He said the new rate was comparable to other facilities in the region. Mr. Conover asked the anticipated increase in revenues and Mr. Coté replied it could be about \$100,000 to \$120,000 depending upon the occupancy of the Facility.

Motion was made by Mrs. Frasier, seconded by Mr. Taylor and carried unanimously to approve the request as presented and the necessary resolution was authorized for the December 19, 2014 Board meeting. *A copy of the resolution request form is on file with the minutes.*

With regards to Staffing, Mr. Cote apprised there were several vacant positions within the Nursing Department. He stated even though there were no active Workers' Compensation cases at this time there were about five employees out of work on disability for various reasons such as maternity leave. He advised he anticipated these employees would be returning before the end of the year.

Pertaining to the Overtime Report, Ms. Henkel advised they were within the amount budgeted for 2014; however, she said, the numbers seemed slightly distorted due to the creation of several part-time positions.

Mr. Cote apprised the NYSDOH completed their annual inspection of the facility on November 10, 2014. He commended the staff on their response to the inspection. He said as per the inspection results there were a few building features that had been in place for many years that required updating such as adding sprinklers to the overhang on the front of the building. He mentioned they were working on a plan of correction for the one care incident related to some resident weights.

Mr. Whitehead advised he had spent a considerable amount of time at Westmount Health Facility last month and he wanted to convey his experience there was an extremely positive one. He said

the staff was remarkable and he noted a previous experience in the area that was not as positive with his mother. He mentioned in both instances when he was searching for care for his mother he went to the Medicaid website to research how the different facilities were rated in the area. He stated historically Westmount Health Facility was rated 2 out of 5 stars, which was relatively low for this region. He commended Mr. Cote for the changes he had made to the facility, as he felt they would increase the facilities rating substantially. He commented he believed the improvements were positive for the facility, the community and the buyer.

Mr. Auffredou stated an executive session was required to discuss a pending matter with the NYSDOH from 2011.

Motion was made by Mrs. Frasier, seconded by Mr. Taylor and carried unanimously to enter into executive session to receive legal counsel regarding a 2011 NYSDOH citation.

Executive Session was held from 11:41 a.m. until 11:47 a.m.

Upon reconvening motion was made by Mr. Conover, seconded by Mr. McDevitt and carried unanimously to approve settlement of Civil Money Penalties relating to the December 20, 2011 Department of Health violation for an amount not to exceed \$2,000 and the necessary resolution was authorized for the December 19, 2014 Board meeting.

As there was no further business to come before the Health Services Committee, on motion made by Mr. Conover and seconded by Mrs. Frasier, Mr. Sokol adjourned the meeting at 11:48 a.m.

Respectfully submitted,
Sarah McLenithan, Secretary to the Clerk of the Board